

**City of Middletown
Middletown (C) Sewage Treatment Plant
DEC # 3-3309-00038/00002
SPDES Permit NY 0026328**

**Response to Public Comments
May 9, 2012**

Background: The Department public noticed a draft State Pollutant Discharge Elimination System (SPDES) for the renewal of the above referenced facility in the January 11, 2012 Environmental Notice Bulletin. This renewal was based upon a September 23, 2011 submission of a municipal SPDES permit application form and sampling data to the Department for review. This document provides the Department's response to the comments received on February 7, 2012 from Jacob S. Tawil, Department of Public Works, City of Middletown, and on February 13, 2012 from Michelle Josilo, USEPA during the public comment period.

Comments from Jacob S. Tawil, P.E., Commissioner, Department of Public Works, City of Middletown dated February 7, 2012

The City of Middletown objects to including the Inflow/Infiltration (I/I) management program as a condition in the City's WWTP new SPDES permit for the following reasons:

- The City Wide SSES, Sanitary Sewer Evaluation Study, commissioned in 2004, sought to minimize infiltration and inflow (I/I). The report was submitted and approved by DEC. Some of the SSES recommendations and implementation schedule was included in the current DEC Consent Order.
- We are on track to complete the I/I related projects and complying with the DEC Consent Order. We are constructing a \$3.5 million Sterling Street Sewer Project, which includes Little Ave Storm Sewer project.
- Understanding that the City of Middletown Wastewater collection system is old, and realizing the nature of the infiltration problem, we have made a decision to have extra capacity at the City's newly expanded and upgraded wastewater treatment plant. The newly expanded plant was put on line in January 2011.
- We will continue to be vigilant and address any I/I issues that we find in the future.

***DEC Response** – The Collection System Monitoring and Maintenance program outlined in the draft SPDES permit compliance schedule is a common permit requirement for municipalities with older sewer systems where I/I problems have been identified. DEC is aware of the City's efforts to remove I/I under the Consent Order and as such, the Schedule of Compliance on page 8 of the draft permit has been removed. This is with the understanding that the City will continue to be vigilant and address I/I issues as stated above. Please keep in mind that even with the treatment system expansion, peak wet weather flows associated with excess I/I can result in treatment system upsets and/or sanitary sewer overflows. Continuous sewer system evaluation and maintenance is the best method to prevent I/I impacts from contributing to SPDES permit violations. Efforts by the City in this regard will be evaluated to determine whether a Collection System Monitoring and Maintenance program should be incorporated into the SPDES permit in the future.*

Comments from Michelle Josilo, NPDES Section Chief, Clean Water Regulatory Branch, USEPA, Region 2 dated February 9, 2012

Comment #1 - Discharge Limitations:

- The draft Middletown STP permit is currently lacking average monthly numeric limits for CBOD₅ (June 1 - Oct. 31) and TKN (June 1 - Oct. 31).

DEC Response - The draft SPDES permit contains an average monthly numeric limit for Ultimate Oxygen Demand (UOD) which is calculated as $1.5 \times \text{CBOD}_5 + 4.5 \times \text{TKN}$. UOD is often used by New York State as a tertiary limit and is applied as a monthly average. The UOD limit is more stringent than the "winter" CBOD₅ monthly average limit of 25 mg/l.

- The draft permit requires monitoring for NH₃ (June 1 - Oct. 31), NH₃ (Nov. 1 - May 31) but does not include numeric effluent limits.

DEC Response - Please note that page 4 of the draft SPDES permit contains average monthly numeric limits for NH₃ of 3.3 mg/l for the period of June 1 - Oct. 31 and 6.8 mg/l for the period of Nov. 1 - May 31.

- According to 40 C.F.R. § 122.45(d)(2), average weekly and average monthly discharge limitations are required for Publically Owned Treatment Works (POTWs). Please include numeric limits for all effluent parameters included in the permit and ensure that they have appropriate short- and long-term discharge limitations in accordance with 40 C.F.R. § 122.45(d)(2).

DEC Response - The DEC does utilize average weekly and average monthly discharge limitations for technology based effluent limits such as CBOD₅ and TSS. The DEC has used monthly averages for water quality based effluent limits for nutrients, such as ammonia, as noted on page 4 of the permit. This has been policy of the DEC.

Comment #2 - Compliance Schedule:

The draft Middletown STP permit contains a compliance schedule for Collection System Monitoring and Maintenance. This compliance schedule does not incorporate a final effluent limit or a final date for compliance. As described in the May 10, 2007 memo from James Hanlon of EPA's Office of Wastewater Management to Alexis Strauss, Director of EPA Region 9's Water Division and 40 C.F.R. § 122.47, compliance schedules must be an enforceable sequence of actions or operations leading to compliance with a water quality based effluent and must include an enforceable final effluent limitation and a date for its achievement that is within the timeframe allowed by the applicable state or federal law provision authorizing compliance schedules. Please review 40 C.F.R. § 122.47 and ensure that the compliance schedule in the Middletown STP permit is in complete accordance with the regulations.

DEC Response – As indicated earlier in this response to comments, the Department has removed the Schedule of Compliance for the collection system monitoring and maintenance program condition from the permit. The permittee has performed extensive I/I removal under Order on Consent No. R3-20040308 and agrees to continue efforts in this regard on their own.

Comment #3 - General Conditions:

On page 13 of the draft permit (Recording, Reporting and Additional Monitoring Requirements), there is a reference to 6 NYCRR Part 750. EPA and NYSDEC are currently in discussions about the required general conditions language. At a minimum in the interim, in order to meet the requirements of 40 C.F.R. § 122.41 and 122.2, the general condition language in the draft Middletown STP permit should be revised as such:

- a) The permittee shall comply with all conditions set forth in this permit and with 6 NYCRR Part 750 concerning additional monitoring and reporting requirements and conditions, including noncompliance reporting. 6 NYCRR Part 750 is hereby incorporated by reference and its conditions are enforceable requirements of this permit; and

Additionally, the Recording, Reporting and Additional Monitoring Requirements section of the draft permit should also include the following language:

The permittee shall comply with all applicable State Water Quality Standards in accordance with NY Environmental Law § 17-0811.

DEC Response - Based upon discussions with EPA, revision to the Recording, Reporting and Additional Monitoring Requirements conditions were recommended on the last page of the permit. The draft permit condition:

- a) The permittee shall also comply with 6 NYCRR Part 750 concerning additional monitoring and reporting requirements and conditions, including noncompliance reporting.

has been replaced by:

- a) 6 NYCRR Part 750 is hereby incorporated by reference and its conditions are enforceable requirements of this permit. The permittee shall comply with all conditions set forth in this permit and with 6 NYCRR Part 750, including, but not limited to: additional monitoring and reporting requirements and conditions, including noncompliance reporting.